

Attorney Docket No.: RTS-0201  
Inventors: Zhang et al.  
Serial No.: 09/659,860  
Filing Date: September 11, 2000  
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Please amend claims 1 and 11 as follows:

1. (Amended) A compound 8 to 50 nucleobases in length targeted to a nucleic acid molecule encoding human caspase 7 (SEQ ID NO: 3), wherein said compound specifically hybridizes with and inhibits the expression of human caspase 7 (SEQ ID NO: 3).

11. (Amended) A compound 8 to 50 nucleobases in length which specifically hybridizes with at least an 8-nucleobase portion of an active site on a nucleic acid molecule encoding human caspase 7 (SEQ ID NO: 3).

#### REMARKS

Claims 1-20 are pending in this application. Claim 3 has been canceled. Claims 1 and 11 have been amended. The pending claims have been subjected to a Restriction Requirement by the Examiner. The Examiner suggests that the sequences claimed are distinct as each SEQ ID NO. is a unique nucleotide sequence, and each sequence targets different and specific regions of the nucleic acid encoding caspase 7, modifying expression of the gene to varying degrees. The Examiner suggests that a search of more than one of the identified antisense sequences presents an undue burden on the Patent and Trademark Office. The Examiner has required Applicants

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to elect one sequence. Applicants respectfully traverse this restriction requirement.

MPEP §803 is quite clear; for a proper restriction requirement, it must be shown (1) that the inventions are independent or distinct AND (2) that there would be a serious burden on the Examiner if the restriction is not required. MPEP 802.01 defines "distinct" to mean that the "two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made there, etc., but are capable of separate manufacture, use, or sale, as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER."

All of claims of the instant application relate to the single concept of caspase 7 modulation. Accordingly, each of the claims contain the components for use in the same endpoint, namely modulation of human caspase 7 expression. Thus, Applicants respectfully disagree that the Groups set forth by the Examiner are distinct as being novel and unobvious over each other, as required by MPEP § 802.01. Further, a single search relating to human caspase 7 modulation would identify art related to all of the claims of this application and would not be overly burdensome to the Examiner. Accordingly, the instant Restriction Requirement

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meets neither of the criteria as set forth by MPEP §803 to be proper.

Further, as acknowledged by the Examiner, all of the identified SEQ ID NOS of this application share the ability to modulate a common structure, namely the caspase 7 gene. Thus, Applicants respectfully disagree that the sequences are distinct as being novel and unobvious over each other, as required by MPEP § 802.01. Reconsideration and withdrawal of this Restriction Requirement is therefore respectfully requested.

However, in an earnest effort to be completely responsive, Applicants hereby elect to prosecute SEQ ID NO: 3, with traverse. Claim 3 has been canceled. Claim 1 and claim 11 have been amended to clarify that the claimed invention is an compound targeted to a single disclosed species of the human caspase 7 namely, SEQ ID NO: 3. Support for this amendment is found throughout the specification and at Table 1, pages 81-82. Applicants believe that these amendments and this election satisfies the requirements of this Restriction Requirement.

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Attached hereto is a marked up version of the changes made to the claims by the current amendment. The attached page is captioned "Version With Markings to Show Changes Made."

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the claims:

Claim 3 has been canceled.

Claims 1 and 11 have been amended as follows:

1. (Amended) A compound 8 to 50 nucleobases in length targeted to a nucleic acid molecule encoding human caspase 7 (SEO ID NO: 3), wherein said compound specifically hybridizes with and inhibits the expression of human caspase 7 (SEO ID NO: 3).

11. (Amended) A compound 8 to 50 nucleobases in length which specifically hybridizes with at least an 8-nucleobase portion of an active site on a nucleic acid molecule encoding human caspase 7 (SEO ID NO: 3).